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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/728,709	12/05/2003	Eric Ezra Youngberg	LFF1.PAU.01	9967
23386	7590	03/15/2006	EXAMINER	
MYERS DAWES ANDRAS & SHERMAN, LLP 19900 MACARTHUR BLVD., SUITE 1150 IRVINE, CA 92612			KING, ANITA M	
			ART UNIT	PAPER NUMBER
			3632	
DATE MAILED: 03/15/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/728,709

Applicant(s)

YOUNGBERG, ERIC EZRA

Examiner

Anita M. King

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9, 11-23, 25 and 26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9, 11, 12, 25 and 26 is/are allowed.
- 6) ☒ Claim(s) 1-8 and 13-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

This is the third office action for application number 10728,709, Water Heater Security System, filed on December 5, 2003.

***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on January 23, 2006 has been entered.

***Cancellation of Claims***

Claims 10 and 24 have been canceled per applicant's request.

***Claim Objections***

Claim 13 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The subject matter in claim 13 is redundant; the limitation of the strap assembly being non-metallic is cited in line 8 of claim 1.

Claims 6 and 8 are objected to because of the following informality: claims 6 and 8 have been provided with the status identifier "(Currently amended)" however, there is no

indication in the claim subject matter that the claims have been amendment in the correspondence filed January 23, 2006. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

Claims 1-7 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the water" in line 5. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 2, and 14-16 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,190,260 to Daubenspeck. Daubenspeck discloses a water heater system comprising: a water heater (10); at least one strap assembly (23) adapted to extend around at least a portion of the water heater and to hold the water heater in a generally fixed relationship with an adjacent wall (15); the strap assembly having a first end, a second end, and a woven flexible, non-metallic configuration free of sharp edges (Col. 3, line 43ff); a first wall bracket (11) adapted to be attached to the wall on a first side of the water heater; a second wall bracket (13) adapted to be attached to the wall on a second side of the water heater opposite to the first side; the first end of the strap assembly having a fixed

relationship with the first wall bracket; the second end of the strap assembly having an adjustable relationship with the second wall bracket (Col. 3, line 20ff) to permit movement of the second end of the strap assembly between a first position wherein the strap assembly has a first length between the first wall bracket and the second wall bracket, and a second position wherein the strap assembly has a second length shorter than the first length between the first wall bracket and the second wall bracket; and wherein the strap assembly comprises a single strap having the first end and the second end.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 2, and 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,202,977 to Chapman in view of Daubenspeck. Chapman discloses a water heater security system (20) comprising: a water heater (10); at least one strap assembly (30) adapted to extend around at least a portion of the water heater and to hold the water heater in a generally fixed relationship with an adjacent wall (11, 12); the strap assembly having a first end, a second end, and a flexible configuration; a first wall bracket (21) adapted to be attached to the wall on a first side of the water heater; a second wall bracket (21) adapted to be attached to the wall on a second side of the water heater opposite to the first side; the first end of the strap assembly having a fixed relationship with the first wall bracket; the second end of the strap assembly having an adjustable relationship with the second wall bracket to permit movement of the second end of the strap

assembly between a first position wherein the strap assembly has a first length between the first wall bracket and the second wall bracket, and a second position where the strap assembly has a second length shorter than the first length between the first wall bracket and the second wall bracket; and wherein the strap assembly comprises a single strap having the first end and the second end.

Chapman discloses the claimed invention except for the limitation of the strap assembly being a woven, flexible, non-metallic configuration free of sharp edges.

Daubenspeck teaches a water heater security system comprising a water heater (10), at least one strap assembly (23) having a first end, a second end, and a woven, flexible, non-metallic configuration free of sharp edges (Col. 3, line 43ff), a first wall bracket (11), and a second wall bracket (13). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the strap assembly in Chapman to have included a strap assembly of a woven, flexible, non-metallic configuration free of sharp edges as taught by Daubenspeck for the purpose of providing an alternative, mechanically equivalent means for securing the water heater in place with respect to the brackets and the wall.

Claims 3, 18, 21, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chapman combined with Daubenspeck and in further view of U.S. Patent 6,138,864 to Enochs. Daubenspeck further discloses that the strap assembly may alternatively be in separate sections having a first section and a second section (Col. 3, line 14ff). Chapman combined with Daubenspeck disclose the claimed invention except for the limitations of the strap assembly having a first strap, a second strap, and a buckle. Enochs teaches a

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security system, capable of securing a water heater in a generally fixed relations with an adjacent wall, the system comprising at least one strap assembly having a first end, a second end, and a flexible configuration, a first wall bracket (26), a second wall bracket (26), the strap assembly including a first strap (28) having a first end and an opposing third end, and a second strap having a second end and an opposing fourth end; and a buckle (31) for attaching the third end of the first strap in a fixed relationship to the fourth end of the second strap. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the strap assembly in Chapman combined with Daubenspeck to have included the strap assembly as taught by Enochs for the purpose of providing an alternative, mechanically equivalent means for securing the water heater to the wall.

Claims 4, 5, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chapman combined with Daubenspeck and Enochs and in further view of U.S. Patent 3,967,347 to Bickis, Sr., hereinafter, Bickis. Chapman combined with Daubenspeck and Enochs discloses the claimed invention except for the limitation of buckle having an adjustable relationship with one of the ends of the straps. Bickis teaches a buckle (1) having an adjustable relationship with a first end (41) of a strap (22) and a second end (42) of the strap. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the buckle in Enochs to have included the adjustable buckle as taught by Bickis for the purpose of providing more adjustability to the security system in order to accommodate various sized water heaters.

Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chapman combined with Daubenspeck and Enochs and in further view of U.S. Patent 3,390,436 to Prete, Jr., hereinafter, Prete. Chapman combined with Daubenspeck and Enochs disclose the claimed invention except for the limitation of a buckle having a first portion bent back on a second portion and slide. Prete teaches a buckle (10) having a first portion (17) bent back over a second portion (11) and defining a channel therebetween, a slide (22) engageable by an end of a strap (33) and movable within the channel to form a fixed relationship between the buckle and the end of the strap, wherein the slide includes side flanges (24, 25) to maintain the slide in the channel, and wherein the second portion of the buckle has side flanges (12, 13) to maintain the slide in the channel. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the buckle in Enochs to have included the buckle as taught by Prete for the purpose of providing an alternative, mechanically equivalent buckle for securing the ends of the strap to secure an object to a wall.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chapman combined with Daubenspeck and in further view of U.S. Patent 3,894,707 to Heard. Chapman combined with Daubenspeck discloses the claimed invention except for the limitation of the first end of the strap being adjustable with the first wall bracket. Heard teaches that it is known to have a strap assembly comprising a single strap (70) of flexible material having a first end in adjustable relationship with a first wall bracket (24) and a second end in an adjustable relationship with a second wall bracket (50). It would have been obvious to one having ordinary skill in the art at the time the invention was made to

have modified the strap assembly in Chapman to have included the arrangement as taught by Heard for the purpose of providing move adjustability to the strap assembly in relation to the wall brackets.

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chapman combined with Daubenspeck in view of Enochs and in further view of Heard. Chapman combined with Daubenspeck and Enochs discloses the claimed invention except for the limitation of the first outer end of the strap assembly having an adjustable relationship with the first wall bracket and the second outer end having an adjustable relationship with the second wall bracket. Heard teaches that it is known to have a strap assembly comprising a single strap (70) of flexible material having a first end in adjustable relationship with a first wall bracket (24) and a second end in an adjustable relationship with a second wall bracket (50). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the strap assembly in Chapman combined with Daubenspeck and Enochs to have included the arrangement as taught by Heard for the purpose of providing move adjustability to the strap assembly in relation to the wall brackets.

***Allowable Subject Matter***


Claims 9, 11, 12, 25, and 26 are allowed.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anita M. King whose telephone number is (571) 272-6817. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (571) 272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Anita M. King  
Primary Examiner  
Art Unit 3632

March 8, 2006